

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUL 30 2018 ★

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

LONG ISLAND OFFICE

JEFF ROTH

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

FARMINGDALE UNION FREE SCHOOL DISTRICT

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Complaint for Violation of Civil
Rights
(Non-Prisoner Complaint)

Case No. **CV-18 4319**
(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No
(check one)

BIANCO, J.
LINDSAY, M.J.

RECEIVED

JUL 30 2018

EDNY PRO SE OFFICE

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed *in forma pauperis*.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>JEFF ROTH</u>
Street Address	<u>20 FRANK AVENUE</u>
City and County	<u>FARMINGDALE, NASSAU</u>
State and Zip Code	<u>NEW YORK, 11735</u>
Telephone Number	<u>516-420-3451</u>
E-mail Address	<u></u>

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	<u>FARMINGDALE UNION FREE SCHOOL DISTRICT</u>
Job or Title (if known)	<u></u>
Street Address	<u>50 VAN COTT AVENUE</u>
City and County	<u>FARMINGDALE, NASSAU</u>
State and Zip Code	<u>NEW YORK 11735</u>
Telephone Number	<u>516-434-5100</u>
E-mail Address (if known)	<u></u>

Defendant No. 2

Name N/A
Job or Title _____
(if known) _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address _____
(if known) _____

Defendant No. 3

Name N/A
Job or Title _____
(if known) _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address _____
(if known) _____

Defendant No. 4

Name N/A
Job or Title _____
(if known) _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address _____
(if known) _____

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- ☒ State or local officials (a § 1983 claim)
☐ Federal officials (a *Bivens* claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

FREEDOM OF SPEECH, RIGHT TO DUE PROCESS, RIGHT OF ACCESS
RIGHT OF PRIVACY, FREEDOM OF RELIGION

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

FARMINGDALE UNION FREE SCHOOL DISTRICT

- B. What date and approximate time did the events giving rise to your claim(s) occur?

MAY 9 2018

- C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

On May 9, 2018 as a courtesy the Nassau County Police hand delivered a letter to my home from the Farmingdale Public School's Board of Education. The officers who are aware of the history with my advocacy concerning Farmingdale Public schools were professional and respectful. Enclosed within this hand delivered letter was the attached "suspension" issued by the Board of Education for the period of that day, May 9, 2018 until June 30, 2020. I explained to the officers that I would be going through the legal channels and will not violate this unconstitutional "No Trespass" order although was scheduled to attend and record the PTA "Meet the Board Candidates" meeting that evening. As a courtesy, the officers obtained special permission for me to attend the meeting that night from their commanding officer although made it clear to adhere to the "suspension" from that point forward. I informed the officers I would be contacting the United States Department of Education and filing a new complaint with the Federal Eastern District Court while attempting to find an attorney to represent me.

It was then; I received from a number of sources within the community and district, the series of events leading up to this new "Suspension". That evening the actions of a PTA council woman and the recording of her behavior in the presence of a Nassau County Police Sergeant prove the discriminatory treatment violating my civil rights which I have been subjected to. This is due to a few members of the Farmingdale Public School's faculty and community who personally do not care for my educated opinions. This form of defamation and slander is discriminatory treatment violating my civil rights where the retaliation is a result of the matters of public interest, I publically state and record at Board of Education meetings.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

- (a) Enter judgement against Defendants;
- (b) Issue a declaratory judgment declaring Farmingdale Union Free School District's "Suspension" until June 20, 2020 unconstitutional.
- (c) Award plaintiff costs, interest, reasonably attorney's fees for this action
- (d) Order such other and further relief for punitive and compensatory damages such as the Court deems just and proper under the circumstances

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: July 20, 2018

Signature of Plaintiff

Printed Name of Plaintiff

JEFF E ROTH



Farmingdale School District

Board of Education

MICHAEL GOLDBERG
President

RALPH V. MORALES
Vice President

Trustees:

SUZANNE D'AMICO
MARIO ESPINOSA
ANTHONY GIORDANO
KATHY LIVELY
ARLENE SOETE

JOHN LORENTZ
Superintendent of Schools

MARY E. ROGERS
District Clerk
516-434-5170

May 9, 2018

Mr. Jeffrey Roth
20 Frank Ave.
Farmingdale, NY 11735

Dear Mr. Roth:

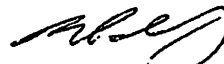
On numerous occasions you have been notified about our concern regarding your conduct on District property and your statements regarding threats to employees and demands while communicating with Board members, District Administrators, employees and students. Twice, the Board of Education was compelled by your actions and behavior to ban you from District property and activities. Recently, while attending Board meetings, you threatened employees while they were in the performance of their duties. For example, we have been informed that you have threatened or made intimidating remarks to our security aid, AV technician, Board Members, PTA representatives and the Superintendent of Schools.

As a result of your continuing conduct and our concerns for the safety of District students, staff and residents, we are compelled to place you on notice, that effective May 9, 2018, up to and including June 30, 2020, you are hereby prohibited from entering upon any of the District's buildings, or grounds of such buildings, including, but not limited to, attending School Board and committee meetings, and from having any personal or other contact or communications with members of the Board of Education, District Administrators or employees, except that you may make written requests for District records pursuant to the Freedom of Information Law; and may vote in School District and other elections at polling places located on District property, subject to the rules contained in the District's Code of Conduct.

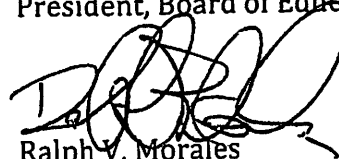
During the aforementioned time period, if you enter any District property or buildings, we will be compelled to treat you as a trespasser, and to ask you to leave. Furthermore, your failure to comply will require us to notify law enforcement authorities.

Moreover, if during the aforementioned time period, you have contact with any of the aforementioned Board, or staff members, the District and/or such Board or staff member will be compelled to contact law enforcement authorities.

Very truly yours,



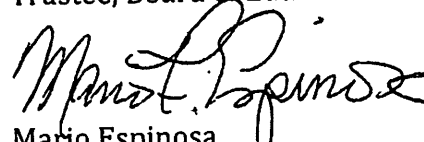
Michael Goldberg
President, Board of Education



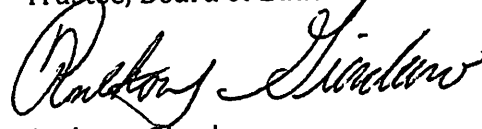
Ralph V. Morales
Vice President, Board of Education



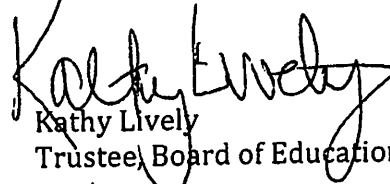
Suzanne D'Amico
Trustee, Board of Education



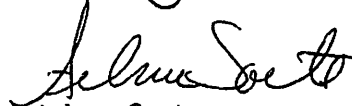
Mario Espinosa
Trustee, Board of Education



Anthony Giordano
Trustee, Board of Education



Kathy Lively
Trustee, Board of Education



Arlene Soete
Trustee, Board of Education



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
32 OLD SLIP, 26TH FLOOR
NEW YORK, NEW YORK 10005

TIMOTHY C. J. BLANCHARD
DIRECTOR
NEW YORK OFFICE

July 23, 2018

Jeff Roth
20 Frank Avenue
Farmingdale, New York 11735

Re: Case No. 02-18-1323
Farmingdale Union Free School District

Dear Mr. Roth:

On May 11, 2018, the U.S. Department of Education, Office for Civil Rights (OCR) received the above-referenced complaint you filed against the Farmingdale Union Free School District. You alleged that the District discriminated against you on the bases of your age (Allegation 1), sex (Allegation 2), and disability (Allegation 3), and retaliated against you for your advocacy (Allegation 4), by banning you from school grounds on May 9, 2018. Based on the information you provided in your complaint, in connection with prior OCR complaints, and during telephone calls with OCR staff on May 29, 2018 and July 17, 2018, OCR has determined that it will not investigate your allegations for the reasons set forth below.

With respect to Allegations 1, 2, 3, and 4, you alleged that the District discriminated against you on the bases of your age, sex, and disability, and retaliated against you for your advocacy, by banning you from school grounds on May 9, 2018. You informed OCR that you believe the District's banning you from school grounds was based on your age and sex because people in the community cannot understand why you are interested in school-related matters as a 47 year-old unmarried man, who does not have children. You also stated that you believe the District's action was based on disability because the District wants to portray you as mentally unstable. You further stated that you previously had advised the District that if it banned you again¹ from school grounds, or denied you membership on one of its committees, you would file an OCR complaint.

¹ The information you provided in connection with prior complaints you filed with OCR indicated that the District's Board of Education (the board) previously banned you from District property for the period from September 18, 2014 through October 18, 2014; for the period from November 7, 2014 through February 7, 2015; and for the period March 12, 2015 through June 30, 2016. You informed OCR that the District alleged that you violated the suspension by entering school property on June 29, 2015 and charged you with trespassing. The Superintendent then had an order of protection entered against you, which prevented you from entering school grounds. You stated that your most recent suspension ended on November 1, 2017.

Page 2 of 2 – Case No. 02-18-1323

However, you informed OCR that on May 9, 2018, the District suspended you from its school grounds until 2020 because a member of the District's Parent-Teacher Association (PTA) was upset that you had filmed a PTA "Meet the Candidates" event held on May 9, 2018; and complained to the board that you had harassed her. You also asserted that the District banned you because you raised topics at the board meetings regarding security and the importance of recording meetings. You stated that because you previously worked on "electrical projects" for school districts, you have specialized knowledge and can "catch things that others would not." You stated that, during the prior year, you filmed the Meet the Candidates event, and your video clips were sent through social media, influencing the election. You stated that the District was waiting for an opportunity to ban you from school grounds again, and the incident with the PTA member provided them with a basis for doing so. You informed OCR that you believe that the District's primary motivation is to limit your public speaking, prevent you from recording its board meetings and from serving on its committees; and that the District is censoring your freedom of speech. You did not provide any specific information from which OCR could infer that the District's decision to suspend you from its school grounds until 2020 was because of or motivated by your age, sex, and/or disability, and/or in retaliation for your engaging in protected activities or potentially engaging in future protected activities. Rather, you provided multiple alternative rationales for the District's banning you from school grounds on May 9, 2018. Therefore, OCR has determined that Allegations 1, 2, 3, and 4 are so speculative and conclusory that they are not sufficiently grounded in fact for OCR to infer that discrimination on the bases of age, sex and disability, and/or retaliation for protected activity may have occurred or is occurring. Accordingly, OCR will take no further action regarding Allegations 1, 2, 3, and 4, and OCR has dismissed your complaint as of the date of this letter.


This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file a complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, please contact Jocelyn Panicali, Senior Compliance Team Attorney, at (646) 428-3796 or jocelyn.panicali@ed.gov; or me, at (646) 428-3801 or nadja.r.allen.gill@ed.gov.

Sincerely,



Nadja Allen Gill
Compliance Team Leader